

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35751

IOWA INTERSTATE RAILROAD, LTD.—ACQUISITION EXEMPTION—LINE OF
BNSF RAILWAY COMPANY

Decided: November 8, 2013

This decision institutes a proceeding under 49 U.S.C. § 10502(b).

By petition filed on August 7, 2013, Iowa Interstate Railroad, Ltd. (IAIS) seeks an exemption pursuant to 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10902 to acquire approximately 0.75 miles of rail line, known as the Bartlett Line, owned by BNSF Railway Company (BNSF).¹ The purpose of the proposed transaction is to accommodate a portion of the Council Bluffs Interstate System (CBIS) Improvements Project, a significant public works project undertaken by Iowa Department of Transportation (IDOT). In connection with the CBIS project, various rail lines of BNSF, IAIS, and CBEC Railway, Inc. (CBEC) will be relocated. BNSF's Council Bluffs Subdivision will be relocated onto an alternate alignment further to the east, and BNSF's existing line will be abandoned both north and south of the Bartlett Line. An existing connection between the BNSF and CBEC lines will be realigned as part of the CBIS project. The connection is immediately adjacent to the north end of IAIS's Council Bluffs Yard and the connection to the Bartlett Line. IAIS would then serve Bartlett via the reconfigured Bartlett Line connection. IAIS seeks expedited consideration of the petition so that the Board's approval is effective by November 30, 2013.

On August 27, 2013, Bartlett Grain Company, L.P. (Bartlett Grain) and Kansas City Southern Railway Company (KCS) filed replies to the petition. Bartlett Grain stated that it currently receives KCS unit train service from BNSF to its Council Bluffs South Facility and is concerned about (1) whether its facility would have access to a rail line from the south, and (2) whether its service would be disrupted if the proposed transaction is approved. KCS stated that it has concerns with the impact of the proposed transaction on its service to Bartlett Grain.

On October 17, 2013, IAIS filed a supplement to its petition in response to the concerns raised by Bartlett Grain and KCS. Also on October 17, 2013, IDOT filed a letter supporting the petition and expedited consideration.

¹ IAIS certified to the Board on August 20, 2013, that notice of the transaction was posted at the workplace of BNSF employees and sent to the national offices of the labor unions representing BNSF, as required under 49 C.F.R. § 1121.4(h).

On November 6, 2013, both KCS and Bartlett Grain filed responses to IAIS's supplement to its petition.² KCS and Bartlett Grain argue that service to shippers may be disrupted and that IAIS should provide certain assurances regarding its switching charges. They further argue that Bartlett Grain should continue to receive unit train service such as BNSF currently provides.

The Board will institute a proceeding to address these issues and determine the merits of the petition pursuant to 49 U.S.C. § 10502. A procedural schedule, if any, will be issued in a future Board decision.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. An exemption proceeding is instituted under 49 U.S.C. § 10502(b).
2. Notice of this decision will be published in the Federal Register.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

² In the same filing, KCS also requested a housekeeping stay in a related proceeding, BNSF Railway Company, CBEC Railway, Inc., and Iowa Interstate Railroad, Ltd.—Joint Relocation Project Exemption—In Council Bluffs, Iowa, Docket No. FD 35755.